IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

CRP.No. 1397 of 2004()

AGAINST THE ORDER IN IA 3793/03 & 3794/03 IN OS.7/2002 of PRINCIPAL MUNSIFF,ALAPPUZHA

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REVN. PETITIONER/ DEFENDANT/RESPONDENT:

ANIRUDHAN, S/O. KARUNAKARAN,
VALAYANCHIRAYIL, "SREEVALSAM", ARYAD SOUTH,
KOMALAPURAM VILLAGE, ALAPPUZHA.

BY ADV. DR.P.S.KRISHNA PILLAI

RESPONDENTS/ PLAINTIFFS/PETITIONERS:

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1. P.M.KANAKAMMA, D/O. MADHAVI AMMA,
RESIDING AT NIKARTHIL, NORTH ARYAD MURI,
KOMALAPURAM VILLAGE.

2. M.K.KAMAL (LATE), W/O. RAJAPPAN,
RESIDING AT "SREERAJU", NORTH ARYAD MURI,
KOMALAPURAM VILLAGE.

3. KUMUDAMMA, D/O. MADHAVI AMMA,
RESIDING AT PUTHENVEEDU, NORTH ARYAD MURI,
KOMALAPURAM VILLAGE.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.3661 OF 2004 IN C.R.P.NO.1397 OF 2004

DISMISSED

10.8.2007 SD/- PIUS C.KURIAKOSE, JUDGE.

PIUS C. KURIAKOSE,J.

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C.R.P.1397 of 2004

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Dated: 10th August, 2007

ORDER

In this Civil Revision Petition filed by the defendant he impugns common order passed by the court below in two applications filed by the plaintiffs; one application was for restoration of the suit which had been dismissed for default and the other one was for condonation of delay caused in the matter. Even though the respondents have been served with notice, they have not chosen to enter appearance before this court.

2. Heard Dr.P.S.Krishna Pillai, learned counsel for the petitioner. The submissions of Dr.Krishna Pillai notwithstanding , I am unable to agree with him when he submits that the exercise of discretion by the court below in the matter of condonation of delay was not proper. At the same time, I feel that having regard to the conduct which is attributable to the plaintiffs, the learned Munsiff should not have been this soft in the matter of awarding cost. Accordingly, in modification of the impugned order, it is ordered that I.A.Nos.3793/03 and 3794/03 allowed as per the impugned order will stand allowed only if a total amount of Rs.2500/- is paid by way of cost. Out of the same Rs.500/- will be payable to the District Legal

Services Committee, Alappuzha and the balance amount of Rs.2000/- will be payable to the petitioner-defendant either directly or through his counsel. The payment shall be made within one month from today. The petitioner is directed to communicate a copy of this order by registered post with acknowledgement due to the 1st plaintiff requesting him to inform other plaintiffs also about the order. It is made clear that if payment as directed above is not made within the stipulated time, the I.As. will stand dismissed. The court below will insist on production of evidence regarding payment. If it is seen that payment is made, the learned Munsiff will special list the suit for trial and dispose of the same in accordance with law at the earliest and at any rate within three months of the parties appearing. The parties will appear before the court below on 7.9.2007.

The C.R.P. is disposed of as above.

srd **PIUS C.KURIAKOSE, JUDGE**